1949.

File No. O. Reserve Bank/49

Legal Department

A BRANCH

Subject:—Opinions Under Reserve Bank of India Act 1934

File No. O. Reserve Bank/49

426 A

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C. Reserve Bank /40

Legal Department File No:.....

Nr. No.	R.F. /C.B.	Subject	Pages.

Reserve Bank of India Act.

1934

1.	R.F.No. [illegible] C.No. [illegible]	Agreement between the Govt. of Bombay and the Reserve Bank of India Whether Govt. can employ any other banker where the Reserve Bank has no branch or agency —	1-9.
2.	C.No. [illegible]	Whether it is permissible for the Reserve Bank of India to recognise the Baroda Bank as its agent at places where there are no branches of the Imperial Bank.	9-10.

[illegible]

[illegible] dated [illegible].

L.D.I.I.No. 3626 Dtd 23.8.1949

Submitted with reference to F.D. note at pp. 65-8 ante.

It appears that the Imperial Bank of India has refused to open branches at places where they do not exist for the present and the Reserve Bank wants only the Imperial Bank to perform the treasury functions. The Reserve Bank is against entrusting treasury work to approved banks and banking unions. The point for R.L.A.'s consideration is whether the Govt. can entrust the treasury work to the approved banks such as the branch of the Bank of India at Palampur, and of the Central Bank at Chhota Udepur, inspite of the agreement with the Reserve Bank of India under G.R.,F.D. No. 2019/33 dated 15.9.1937, and the agreement of the latter with the Imperial Bank of India. R.L.A. has also been requested to state whether the agreement with the Reserve Bank of India would require amendment so as to enable Govt. entrust treasury work to other Banks as suggested above; and in what manner this should be done.

Slip M

Slip N.

SC dated 4-8-'56.

Office of the R.B.I.

Reserve Bank of India Act, 1934 section 21(1).

Agreement between the Government of Bombay and the Reserve Bank of India.

Whether Government can employ any other banker where the Reserve Bank has no branch or agency.

The preamble to the agreement between the Government of Bombay and the Reserve Bank of India recites that whereas the Bank was constituted and incorporated and is regulated by the Reserve Bank of India Act, 1934, with and subject to the various powers, provisions and restrictions in and by the Act set forth and it was thereby inter alia particularly provided as follows :.....(3) by section 21(1) of the Act that Provincial Governments should entrust the Bank on such conditions as might be agreed upon with all their money, remittance, exchange and banking transactions in India and, in particular, should deposit free of interest all their cash balances with the Bank provided that nothing in that sub-section should prevent Provincial Governments from carrying on money transactions at places where the Bank has no branches or agencies and that Provincial Governments might hold at such places such balances as they may require. Clause 3 of the agreement provides that the general banking business of the Government of Bombay including the payment, receipt, collection and remittance of money on behalf of the Government shall be carried on and transacted by the Bank in accordance with and subject to the provisions of the agreement and of the Act. Clause 2 then goes on to provide:

> "The Government shall employ the Bank as the sole banker in India of the Government which shall deposit or cause to be deposited with the Bank or allow the Bank to receive and hold as banker the whole of its cash balances at any places at which for the time being the Bank shall have an office, branch or agency."

The relevant provisions of the agreement and of the Reserve Bank of India Act quoted above make it clear that the Government of Bombay have given a monopoly of their banking business in India to the Reserve Bank of India. Clause 3 of the agreement cannot be so read and construed as to mean that the Government is to employ the Bank as

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its sole banker only at such places at which for the time being the Bank shall have an office, branch or agency. The word "which" following the word "Government" when it occurs a second time clause is used to convert what would be in the simplest grammar an independent sentence into a subordinate clause by being substituted for a noun expressed in it after being expressed or implied in the sentence to which it is to be subordinated. Not only was the monopoly of its banking business given by Government to the Reserve Bank of India to the exclusion of any other Bank, but Government further stipulated that they will deposit cash balances at places where the Reserve Bank had a branch or agency. In other words, the clause excludes the transaction of banking business with other banks and compels Government to do such business to the extent of depositing the cash balances with the Reserve Bank of India where they have a branch or agency. The proviso to section 21 of the Reserve Bank of India Act cannot also be construed to mean that the Government has power to transact banking business with other banks where the Reserve Bank has no branch or agency. It merely enables the Provincial Government by itself and not by its bankers to carry on money transactions at such places. The scheme of the agreement and of the Act, therefore, is that (1) Government shall not employ any other banker (2) where the Reserve Bank has a branch or agency Government must deposit their cash balances with it and (3) where they have no such branch or agency Government may by itself carry on money transactions. Upon this interpretation it would not be legally feasible for Government to have any transactions with any Bank other than the Reserve Bank of India or its agents even in places where the Reserve Bank has no branch, office or agency. That the

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would, in my opinion, be the main difficulty in the way of continuing the agreements which the merged States may have made with other Banks. It may also be pointed out that even otherwise Government is not bound to respect the arrangements with other Banks unless they have been recognised by legislation or by an express or implied agreement, and that whatever rights these Banks had under the States will avail them nothing against the Provincial Government and could not be asserted in the Courts established by that Government except in so far as they have been thus recognised. (See S.L.A.'s opinion No. 119, Confl., dated 4-3-48 and the Advocate General's opinion No. 29 of 1948 dated 9-8-1948).

P.M.LAD.
O.C. 19/3

Remembrancer of Legal Affairs,

P.P. to P.D. No. 291-Confl. dated the 25th March 1949.

Submitted for signature,

BM

50 dated 4-6-'49.

Office of the R.B.A.

No.201-Genl.
dt. 28-3-40.

All the points on which the R.B.A's advice is sought have already been considered in the opinion which was recently given in the case of the Bank of India's agreement with the Palanpur State. The only feasible course which would best implement the agreement referred to in the third question raised for the R.B.A's advice would be for the Reserve Bank of India to employ the Bank of Baroda as its agent in the Baroda territory. Clause 2 of the agreement between the Reserve Bank of India and the Imperial Bank of India would not come in the way of any such aggrangement. However, this is a question of policy which will happen to be taken up with the Reserve Bank of India.

P.M.LAD,
8/4

S.S.

Remembrancer of Legal Affairs.

R.B. to F.D. No. 3720 dated the 8th April 1940.

Issued

C.P.P
8/4.

MK

SC dated 4-8-'50.